



North Carolina Department of Environment and Natural Resources

Dexter Matthews, Director

Division of Waste Management

Beverly Eaves Perdue, Governor
Dee Freeman, Secretary

October 25, 2012

CERTIFIED MAIL 7009 1680 0000 7515 3516

RETURN RECEIPT REQUESTED

Robert Wiseman, Avery County Manager
175 Lineville Street
P.O. Box 640
Newland, N.C. 28657

SUBJECT: **Notice of Violation**
 Compliance Inspection Report
 Avery County Construction and Demolition Debris Landfill and Transfer Facility
 Permit No. 06-03
 Avery County

Dear Mr. Wiseman,

On October 11, 2012, I, Deborah Aja, representing the State of North Carolina, Division of Waste Management Solid Waste Section ("Section"), inspected the above referenced facility for compliance with North Carolina Solid Waste Statutes and Rules. William (Eric) Foster, Solid Waste Assistant Director, Avery County, and Eric Shane Eggers, Landfill Manager, Avery County, were present during this inspection. The report of the inspection is enclosed.

During the October 11, 2012, inspection construction and demolition waste was observed exposed and uncovered in two locations in the Construction and Demolition Debris Landfill. The first area was located along the access road to the active cell. The access road was constructed over an inactive cell in Phase 2. The area of exposed and uncovered waste in this location measured approximately 5 feet high by 10 feet wide. The second area of exposed and uncovered waste was located at the edge of the active cell near the working face and the toe of the slope of the inactive cells in Phases 1 and 3. The exposed and uncovered waste in this location measured approximately 6 feet high by 20 feet wide. Facility staff acknowledged that these areas were uncovered for an unspecified period of time that exceeded one week. The first area and a portion of the

second area of exposed and uncovered waste was located in areas which would not have had additional wastes placed on them for three months or more and final termination of disposal operations had not occurred, and, the waste was not stabilized with vegetative ground cover or other stabilizing material.

The following violations were noted:

A. 15A NCAC 13B .0203(d) states:

“By receiving solid waste at a permitted facility, the permittee(s) shall be considered to have accepted the conditions of the permit and shall comply with the conditions of the permit.”

General Permit Condition Number 5 states:

“By initiating construction or receiving waste at this facility the permittee shall be considered to have accepted the terms and conditions of this permit.”

General Permit Condition Number 6 states:

“Construction and operation of this solid waste management facility must be in accordance with the Solid Waste Management Rules, 15A NCAC 13B, Article 9 of the Chapter 130A of the North Carolina General Statutes (NCGS 130A-290, et seq.), the conditions contained in this permit; and the approved plan. Should the approved plan and the rules conflict, the Solid Waste Management Rules shall take precedence unless specifically addressed by permit condition.”

By failing to cover and stabilize waste in accordance with the Solid Waste Management Rules, 15A NCAC 13B, Avery County violated 15A NCAC 13B .0203(d) by failing to abide with General Permit Condition Number 5 and General Permit Condition Number 6.

B. 15A NCAC 13B .0542(a) states:

“The owner or operator of a C&DLF unit must maintain and operate the facility in accordance with the operation plan prepared in accordance with this Rule. The operation plan must be submitted in accordance with Rule .0535 of this Section. Each phase of operation must be defined by an area which contains five years of disposal capacity. ”

The operation plan prepared in accordance with this Rule, “Operations Manual” revised January, 2011, states:

“2.6.3.1 Periodic Cover

At the completion of waste placement each week, a six (6) inch layer of earthen material or other material as approved by the DWM will be placed over the exposed waste. Cover will be placed sooner if the area of exposed waste exceeds one-half acre in size, or as necessary to control vectors, fire, odors, and blowing debris. The date and time of cover placement will be recorded by landfill employees.

2.6.3.2 Intermediate Cover

A 12 inch layer of soil cover should be placed on all waste surfaces that have not received waste in 30 days but are below final elevation. This intermediate cover should be seeded immediately and graded such that all precipitation run-off is channeled to the surface water systems."

By failing to maintain and operate the facility in accordance with the operation plan Avery County has violated 15A NCAC 13B .0542(a); specifically, by not covering and stabilizing waste in accordance with the operations plan.

C. 15A NCAC 13B .0542(f)(1) states:

"Except as provided in Subparagraph (3) of this Paragraph, the owners and operators of all C&DLF units must cover the solid waste with six inches of earthen material when the waste disposal area exceeds one-half acre and at least once weekly. Cover must be placed at more frequent intervals if necessary to control disease vectors, fires, odors, blowing litter, and scavenging. A notation of the date and time of the cover placement must be recorded in the operating record as specified in Paragraph (n) of this Rule. "

By failing to cover waste at least weekly, Avery County violated 15A NCAC 13B .0542(f)(1).

D. 15A NCAC 13B .0542(f)(2) states:

"Except as provided in Subparagraph (3) of this Paragraph, areas which will not have additional wastes placed on them for three months or more, but where final termination of disposal operations has not occurred, must be covered and stabilized with vegetative ground cover or other stabilizing material."

By failing to cover and stabilize areas which will not have additional wastes placed on them for three months or more, but where final termination of disposal operations has not occurred, Avery County has violated 15A NCAC 13B .0542(f)(2).

COMPLIANCE SCHEDULE

Based upon the foregoing, Avery County shall come into compliance with **15A NCAC 13B .0203(d), 15A NCAC 13B .0542(a), 15A NCAC 13B .0542(f)(1), and 15A NCAC 13B .0542(f)(2)**, by completing the following:

- 1. Immediately** operate the solid waste management facility in accordance with the Solid Waste Management Rules, 15A NCAC 13B, Article 9 of the Chapter 130A of the North Carolina General Statutes (NCGS 130A-290, et seq.), the conditions contained in Permit No. 06-03; and the approved plan.
- 2. By November 5, 2012**, cover all exposed construction and demolition debris waste with six inches of earthen material. In areas which will not have additional wastes placed on them for three months or more, but where final termination of disposal operations has not occurred, cover and stabilized with vegetative ground cover or other stabilizing material.

Avery County shall provide a written certification with supporting documentation on company letterhead confirming the noted compliance schedule has been completed. Include in this certification any actions taken to prevent these deficiencies from occurring in the future. Mail this certification to Deborah Aja, Solid Waste Section, Asheville Regional Office, 2090 US HWY 70, Swannanoa, NC 28778, by the noted compliance date.

Failure to comply with this schedule may subject the facility and/or all responsible parties to enforcement actions including penalties, injunction from operation of a solid waste management facility or a solid waste collection service and any such further relief as may be necessary to achieve compliance with the North Carolina Solid Waste Management Act and Rules. Pursuant to N.C.G.S. 130A-22(a) and 15A NCAC 13B .0701-.0707, an administrative penalty of up to \$15,000.00 per day may be assessed for each violation of the Solid Waste Laws, Regulations, Conditions of a Permit, or an Order issued under Article 9 of Chapter 130A of the N.C. General Statutes.

If you have any questions please contact me at 828-296-4702 or e-mail deborah.aja@ncdenr.gov.

Sincerely,



Deborah Aja
Environmental Senior Specialist
Solid Waste Section

EC: Mark Poindexter, Field Operations Branch Supervisor
Jason Watkins, Western District Supervisor
Jessica Montie, Compliance Officer
Henry Norris, Solid Waste Director – Avery County